

## **REMARKS**

### ***Summary of Office Action***

In the Office Action, the Examiner rejected Claims 40-51 under 35 U.S.C. § 102(e), as being anticipated by U.S. Patent No. 5,825,283 issued to Camhi (hereinafter "Camhi"). The Examiner also rejected Claims 52-55 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Finally, the Examiner rejected Claims 52-55 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

### ***Summary of Amendment***

Upon entry of the present Request for Continued Examination, Claims 40, 51 and 55 will have been amended. Additionally, Claim 52-54 will have been cancelled and Claim 56 will have been added. As such, Claims 40-51 and 55-56 remain currently pending. By the present amendment, Applicant submits that the rejections have been overcome and respectfully requests reconsideration of the outstanding Office Action.

### ***Applicant's Response***

#### **1. Section 102(e) Rejection of Claims 40-51**

The Examiner submits that Camhi teaches a device having a GPS, a blood alcohol level sensor, memory, communication means, and a processor. *8/4/2006 Office Action*, Page 3. The Examiner further contends that Applicant's claimed breathalyzer has been taught by Camhi's sensor, that Applicant's claimed radio frequency transmitter has been taught by Camhi's communication means, that Applicant's claimed immobilizer CPU has been taught by Camhi's microprocessor, and that Applicant's claimed means for immobilizing the vehicle has been taught by Camhi's "other output devices." *Id.*

Applicant's independent Claim 40 as currently amended recites, inter alia, "A radio frequency breathalyzer system for selectively permitting an individual to operate a vehicle comprising ... a wearable transceiver device operative to transmit a unique coded signal ... a vehicle mount immobilizer CPU for selectively controlling access to the operation of said

vehicle, said immobilizer CPU having a radio frequency transceiver operative to receive said first and second signals transmitted from said radio frequency transmitter unit, further operative to receive said unique coded signal from said wearable transceiver device, and further operative to transmit periodic warning signals to said wearable transceiver device causing said wearable transceiver device to signal the operator of the vehicle to provide a breath sample into said breathalyzer unit ...”

Applicant’s independent Claim 40 requires a wearable transceiver transmitting a unique coded signal to the vehicle mount transceiver. Applicant’s vehicle mount transceiver also transmits periodic warning signals to the wearable transceiver device thereby notifying the person wearing the wearable transceiver that they should provide a breath sample to the breathalyzer unit. Applicant respectfully submits that the addition of these elements does not present the addition of new matter, as support is present throughout the originally filed specification, including paragraph 0020. As currently understood, Camhi does not disclose or suggest a wearable transceiver device capable of sending a unique coded signal to an immobilizer CPU nor for the immobilizer CPU to send periodic warning signals to the wearable transceiver device thereby notifying the vehicle operator that a breath sample is required for continued operation of the vehicle.

Applicant’s breathalyzer system is understood to allow activation of the system whenever the person wearing the transceiver unit comes into close proximity with the vehicle, thereby allowing individuals who are not required to use the breathalyzer to operate the vehicle without being required to blow into the breathalyzer. It is understood that such a system which incorporates a wearable transceiver device and a wireless breathalyzer apparatus allows for all of the functionality of a standard interlock device when the person with the wearable transceiver is present providing normal operation of the vehicle to all others.

For the foregoing reasons and because Camhi fails to disclose the above-noted features of the present invention, Applicant submits that Camhi fails to disclose each and every recited feature of the present invention as recited in independent Claim 40.

Accordingly, Applicant submits that the Examiner has failed to provide an adequate evidentiary basis to support the rejection under 35 U.S.C. § 102(e) and that the present rejection of Claim 40 is improper and should be withdrawn.

Applicant further submits that the Claims 41-50 are allowable at least for the reason that these claims depend on allowable independent Claim 40 and because these claims recite additional features that further define the present invention.

Furthermore, Applicant's independent Claim 51 as currently amended recites, inter alia, "A radio frequency breathalyzer system for selectively permitting access to an individual to operate a vehicle comprising ... means for alerting said radio frequency breathalyzer system that an individual who is required to give breath samples in order to operate said vehicle is present and that said system should request breath samples ..."

As currently understood, Camhi does not disclose or suggest a means for activating the system only when individuals required to provide breath samples in order to operate the vehicle are present. Thus, Camhi fails to disclose each and every recited feature of the present invention as recited in Claim 51.

Accordingly, Applicant submits that the Examiner has failed to provide an adequate evidentiary basis to support the rejection under 35 U.S.C. § 102(e) and that the present rejection of Claim 51 is improper and should be withdrawn.

## 2. Section 112, Second Paragraph, Rejection of Claims 52-55

The Examiner asserts Claims 52-55 are not clear because it is uncertain where the second radio frequency transmitter is located and what signal or conditions will require the transmission from the second radio frequency transmitter. Due to this amendment, Applicant respectfully submits that the rejection of Claims 52-55 under 35 U.S.C. § 112, second paragraph, have been overcome and should now be withdrawn.

Claims 52-54 have been cancelled. The Examiner asserts that it is unclear what means would be required to make the transmitter of Claim 55 tamper-proof. Claim 55, as currently amended, recites "The system of Claim 40 wherein said wearable transceiver device has a

conductive strap operative to terminate transmitting the unique coded signal when tampered with.”

Upon entry of the current amendment, Applicant no longer claims a “tamper-proof device” but rather a system of terminating transmission when the conductive strap of the transceiver unit is tampered with. Support for such amendment can be found throughout the application and in particular in Figure 2B and Paragraph [0031].

As such, Applicant respectfully submits that Claim 55 is no longer unclear and that the rejection under 35 U.S.C. § 112, second paragraph, has been overcome and should now be withdrawn.

3. Section 112, First Paragraph, Rejection of Claims 52-55

The Examiner submits that Claims 52-55 do not comply with the written description requirement because they contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors had possession of the claimed invention. The examiner bases these rejections on his assertion that the original specification does not describe a “second transmitter unit,” teach the claimed processing steps and sending of first and third signals, or teach a “tamper-proof device”.

Applicant’s independent Claims 52-54 have been cancelled. In regards to the Examiner’s assertion that the original specification does not teach the “tamper-proof device” of Claim 55, Claim 55 has been amended and currently recites “The system of Claim 40 wherein said wearable transceiver unit has a conductive strap operative to stop transmitting the unique coded signal when tampered with.” Support for this amendment can be found in Paragraph [0031] of the specification.

Upon entry of the current amendment, Applicant no longer claims a “tamper-proof device” but rather a system of terminating transmission when the conductive strap of the transceiver unit is tampered with. Support for such amendment can be found throughout the application and in particular in Figure 2B and Paragraph [0031]. As such, Applicant respectfully submits that Claim 55 now complies with the written description requirement and that the rejection under 35 U.S.C. § 112, first paragraph, has been overcome and should now be withdrawn.

4. New Claim 56

New Claim 56 is directed toward an embodiment of Applicant's invention further comprising a GPS locator PC and a communications device to transmit a location signal to a monitoring station when a wearable transceiver device is within the vicinity of said vehicle. Thus, authorities may be notified when the operator wearing the transceiver unit is in and/or away from the vehicle. Utilizing the vehicle mount immobilizer CPU as a mobile tracking device expands the way in which the device can be used and is currently understood to be unique to Applicant's device.

Applicant respectfully submits that no new matter is added by these claims, as there is support for such amendment throughout the application and in particular in Paragraph [0037].

*Conclusion*

Applicant respectfully submits that each and every pending claim of the present invention meets the requirements for patentability under 35 U.S.C. §§ 102 and 112, and respectfully requests that the Examiner indicate allowance of each and every pending claim of the present invention.

In view of the foregoing, it is submitted that none of the references of record, anticipate Applicant's invention as recited in each of Claims 40-51 and 55-56. The applied references of record have been discussed and distinguished, while significant claim features of the present invention have been pointed out.

Accordingly, reconsideration of the outstanding Office Action and allowance of the present application and all the claims therein are respectfully requested and now believed to be appropriate.

If any additional fee is required, please charge Deposit Account Number 19-4330.

Respectfully submitted,

Date: 8/14/07

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